



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 3883-99
4 February 2000

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 3 March 1975 for four years at age 17. The record reflects that you were advanced to PFC (E-2) and served without incident until 8 December 1975 when you were formally counseled regarding your unsatisfactory attitude, hostility towards the Marine Corps and your superiors, and frequent involvement of a discreditable nature with military authorities.

On 2 March 1976 you were convicted by special court-martial of assault. You were sentenced to confinement at hard labor for one month, forfeitures of \$100 per month for one month and reduction in rank to PVT (E-1). The convening authority suspended the confinement for a period of six months.

On 1 April 1976 you were notified that action had been initiated to discharge you for substandard personal behavior and that you

were being recommended for a general discharge. You were advised of your procedural rights. You waived your right to submit a statement in your own behalf and did not object to the discharge. The discharge authority directed a general discharge by reason of convenience of the government due to substandard personal behavior. You were so discharged on 12 April 1976.

Individuals discharged for convenience of the government received the type of discharge warranted by the service record. Character of service is based, in part, on conduct and proficiency averages which are computed from marks assigned during periodic evaluation. Your conduct and proficiency averages were both 3.5. A minimum average mark of 4.0 in conduct was required for a fully honorable characterization at the time of your discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, low test scores, and the fact that it has been 23 years since you were discharged. The Board noted the copy of the meritorious mast you provided in which you helped rescue a lady from being swept away by rushing waters and your contention that the commanding officer told you that your discharge would become fully honorable within six months. The Board concluded that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your special court-martial conviction and the fact that you failed to achieve the required average in conduct. There are no provisions for automatic upgrading of a discharge. The fact that you were told there was is untrue and does not provide a valid basis for recharacterizing service. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

You request an original copy of your DD Form 214 and your meritorious mast. Your record does not contain a copy of the meritorious mast, and there is no original DD Form 214 in the record since it was given to you upon discharge. Once lost, the original will not be replaced. You may request a certified copy from the custodian of your records, the National Personnel Records Center, Military Personnel Record, 9700 Page Boulevard, St. Louis, MO 63132.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board.

In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director